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Wolf, Greenfield & Sacks, P.C.
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Boston MA 02210

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OFFICE OF PETITIONS

In re Application of
Marty Pierre, Rey Gaelle, and Pascal
Chauvet
Application No. 10/700,361
Filed: November 3, 2003
Attorney Docket No. S1022.80985US01
Title: DRAM CONTROL CIRCUIT

DECISION ON PETITION

This is in response to the petition under 37 C.F.R. §1.47(a)¹, filed June 23, 2004.

On November 3, 2003, the application was deposited, identifying Marty Pierre, Rey Gaelle, and Pascal Chauvet as joint inventors. The application was deposited without an oath or declaration. On February 12, 2004, the Office mailed a Notice to File Missing Parts of Nonprovisional Application (Notice), requiring an executed oath or declaration along with the surcharge associated with the late filing of an oath or declaration, and the basic filing fee. The notice set a two-month period for response. On June 28, 2004, a notice was mailed which withdrew this notice.

¹A grantable petition under 37 C.F.R. §1.47(a) requires:

- (1) the petition fee of \$130;
- (2) a surcharge of either \$65 or \$130 if the petition is not filed at the time of filing the application, as set forth in 37 CFR § 1.16(e);
- (3) a statement of the last known address of the non-signing inventors;
- (4) either
 - a) proof that a copy of the entire application (specification, claims, drawings, and the oath or declaration) was sent or given to the non-signing inventor for review and proof that the non-signing inventor refuses to join in the application or
 - b) proof that the non-signing inventor cannot be found or reached after diligent effort;
- (5) a declaration which complies with 37 CFR §1.63.

On June 23, 2004, petitioner submitted a copy of the declaration², the instant petition, a declaration of facts, the petition fee, the associated surcharge, the last known address of the non-signing inventor, and a copy of the assignment along with a translation. Petitioner has also included a two-month extension of time.

As such, Petitioner has met requirements (1) – (3) above.

Regarding the fourth requirement above, Petitioner has asserted that on September 19, 2002 and June 14, 2004, correspondence was sent to the non-signing inventor. Petitioner has characterized these mailings as constituting a “diligent effort...to locate Mrs. Rey³.”

The Office disagrees. No mention is made as to any search done for the non-signing inventor. One cannot successfully assert that a diligent effort has been undertaken to locate the non-signing inventor if one has made no effort to locate the same, since one cannot claim that a diligent search was conducted if no search was performed. Petitioner has not given any indication that any effort has been made to locate the non-signing inventor. If Petitioner wishes to assert that the non-signing inventor cannot be located, he must perform a search before he may claim that the inventor cannot be found, as merely sending letters does not constitute a diligent search.

If future attempts to obtain a forwarding address or to locate the non-signing inventor by other means such as through E-mail, telephone, or the Internet fail, then applicant will have provided the necessary proof required under 37 C.F.R. §1.47 that the inventor cannot be reached. Details of the efforts to locate the non-signing inventor should be set forth in an affidavit or declaration of facts by a person with first hand knowledge of the details.

Applicant should submit documentary evidence such as the results of an E-mail or Internet search. It is important that the statement contain facts as opposed to conclusions⁴.

Regarding the fifth requirement above, the declaration does not comply with MPEP §602.05(a). This section of the MPEP sets forth that a copy of the oath or declaration from a prior nonprovisional application may be filed in a continuation application. However, if this oath or declaration is submitted subsequent to the filing of the child: the cover letter accompanying the declaration should identify the application number of the continuation application; the cover letter should indicate that the declaration submitted is a copy of the declaration from a prior application, and; applicant should label the copy of the declaration with the application number of the continuation application.

² The declaration submitted with the instant petition is actually that which was associated with the grandparent of the instant application, 10/111,506, which was executed by each of the joint inventors save joint inventor Rey.

³ Petition, page 1.

⁴ See MPEP 409.03(d).

It does not appear that a cover letter has been included with the declaration which has been submitted with this petition, and the declaration does not contain the serial number of the instant application. As such, the declaration will not be accepted.

For these reasons, the petition under 37 C.F.R. §1.47(b) is **DISMISSED**.

Rule 47 applicant is given **TWO MONTHS** from the mailing date of this decision to reply, correcting the below-noted deficiencies. Any reply should be entitled "Renewed Petition Under 37 C.F.R. §1.47(a)," and should only address the deficiencies noted above, except that the reply may include an acceptable oath or declaration executed by the non-signing inventor. **Failure to respond will result in abandonment of the application.** Any extensions of time will be governed by 37 C.F.R. §1.136(a).

Petitioner is reminded that all submitted statements should be from one having firsthand knowledge of the search.

The reply to this letter may be submitted by mail⁵, hand-delivery⁶, or facsimile⁷.

The reply should display "Please deliver to Paul Shanowski, c/o Office of Petitions" in a prominent manner. The Petitioner may wish to consider telephoning the undersigned at the number provided below to confirm that the documents were delivered to the undersigned. Please note that the delivery process can take as much as three weeks.

The application file will be retained in the Office of Petitions for two (2) months.

Telephone inquiries regarding this decision should be directed to the undersigned at (703) 305-0011. Please note that on approximately September 28, 2004, the Office of Petitions will relocate to the new PTO location in Alexandria. Although the mailing address will remain the same, the general phone number for the Office of Petitions which should be used for status requests will change to 571-272-3282, and the telephone number for the undersigned will change to 571-272-3225.



Paul Shanowski
Senior Attorney
Office of Petitions
United States Patent and Trademark Office

⁵ Mail Stop Petition, Commissioner for Patents, United States Patent and Trademark Office, P.O. Box 1450, Alexandria, VA, 22313-1450.

⁶ Customer Window, Mail Stop Petition, Crystal Plaza Two, Lobby, Room 1B03, Arlington, Virginia 22202.

⁷ (703) 872-9306 - please note this is a central facsimile number, and as such, there will be a delay in the delivery of the facsimile to the undersigned.

Declaration and Power of Attorney for Patent Application

Déclaration et Pouvoirs pour Demande de Brevet

French Language Declaration

En tant que l'inventeur nommé ci-après, je déclare par le présent acte que:

Mon domicile, mon adresse postale, et ma nationalité sont ceux figurant ci-dessous à côté de mon nom.

Je crois être le premier inventeur original et unique (si un seul nom est mentionné ci-dessous), ou l'un des premiers co-inventeurs originaux (si plusieurs noms sont mentionnés ci-dessous) de l'objet revendiqué, pour lequel une demande de brevet a été déposée concernant l'invention intitulée:

DRAM CONTROL CIRCUIT

et dont la description est fournie ci-joint à moins que la case suivante n'ait été cochée:

☒ a été déposée le 23 AVRIL 2002 sous
le numéro de demande des Etats-Unis ou le
numéro de demande international PCT
10/111 506

☐ les spécifications portant le dossier de l'avocat
numéro _____

et modifiée le _____
(le cas échéant).

Je déclare par le présent acte avoir passé en revue et compris le contenu de la description ci-dessus, revendications comprises, telles que modifiées par toute modification dont il aura été fait référence ci-dessus.

Je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, §1.56 du Code fédéral des réglementations.

As a below named inventor, I hereby declare that:

My residence, post office address and citizenship are as stated next to my name.

I believe I am the original, first and sole inventor (if only one name is listed below) or an original, first and joint inventor (if plural names are listed below) of the subject matter which is claimed and for which a patent is sought on the invention entitled

the specification of which is attached hereto unless one of the following boxes is checked:

☒ was filed on 23 APRIL 2002
as United States Application Number or PCT
International Number 10/111 506

☐ the specification of which bears attorney
docket No. _____

and was amended on _____
(if applicable).

I hereby state that I have reviewed and understand the contents of the above identified specification, including the claims, as amended by any amendment referred to above.

I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56.

French Language Declaration

Je revendique par le présent acte avoir la priorité étrangère, en vertu du Titre 35, §119(a)-(d) ou § 365(b) du Code des Etats-Unis, sur toute demande étrangère de brevet ou certificat d'inventeur ou, en vertu du Titre 35, § 365(a) du même Code, sur toute demande internationale PCT désignant au moins un pays autre que les Etats-Unis et figurant ci-dessous et, en cochant la case, j'ai aussi indiqué ci-dessous toute demande étrangère de brevet, tout certificat d'inventeur ou toute demande internationale PCT ayant une date de dépôt précédant celle de la demande à propos de laquelle une priorité est revendiquée.

Prior foreign application(s)

Demande(s) de brevet antérieure(s)

PCT/FR01/02669

PCT

(Number)
(Numéro)

00/10943

(Country)
(Pays)

FRANCE

(Number)
(Numéro)

(Country)
(Pays)

Je revendique par le présent acte tout bénéfice, en vertu du Titre 35 §119(e) du Code des Etats-Unis, de toute demande de brevet provisoire effectuée aux Etats-Unis et figurant ci-dessous.

(Application No.)
(N° de demande)

(Filing Date)
(Date de dépôt)

(Application No.)
(N° de demande)

(Filing Date)
(Date de dépôt)

Je revendique par le présent acte, le bénéfice, en vertu du Titre 35 § 120 du Code des Etats-Unis, de toute demande de brevet effectuée aux Etats-Unis, ou en vertu du Titre 35, § 365(c) du même Code, de toute demande internationale PCT désignant les Etats-Unis et figurant ci-dessous et, dans la mesure où l'objet de chacune des revendications de cette demande de brevet n'est pas divulgué dans la demande antérieure américaine ou internationale PCT, en vertu des dispositions du premier paragraphe du Titre 35, § 112 du Code des Etats-Unis, je reconnais devoir divulguer toute information pertinente à la brevetabilité, comme défini dans le Titre 37, § 1.56 du Code Fédéral des réglementations, dont j'ai pu disposer entre la date de dépôt de la demande antérieure et la date de dépôt de la demande nationale ou internationale PCT de la présente demande:

(Application No.)
(N° de Demande)

(Filing Date)
(Date de Dépôt)

(Application No.)
(N° de Demande)

(Filing Date)
(Date de Dépôt)

Je déclare par le présent acte que toute déclaration ci-incluse est, à ma connaissance, véridique et que toute déclaration formulée à partir de renseignements ou de suppositions est tenue pour véridique; et de plus, que toutes ces déclarations ont été formulées en sachant que toute fausse déclaration volontaire ou son équivalent est passible d'une amende ou d'une incarcération, ou des deux, en vertu de la Section 1001 du Titre 18 du Code des Etats-Unis, et que de telles déclarations volontairement fausses risquent de compromettre la validité de

I hereby claim foreign priority under Title 35, United States Code, §119(a)-(d) or § 365(b) of any foreign applications(s) for patent or inventor's certificate, or § 365(a) of any PCT International application which designated at least one country other than the United States, listed below, and have also identified below, by checking the box, any foreign application for patent or inventor's certificate, or PCT International application having a filing date before that of the application on which priority is claimed:

24 AUGUST 2001 Priority not claimed
Droit de priorité non revendiqué

(Day/Month/Year Filed)
(Jour/Mois/Année de dépôt)

25 AUGUST 2000

(Day/Month/Year Filed)
(Jour/Mois/Année de dépôt)

I hereby claim the benefit under Title 35, United States Code, § 119(e) of any United States provisional application(s) listed below.

I hereby claim the benefit under Title 35, United States Code, §120 of any United States application(s) or § 365(c) of any PCT international application(s) designating the United States, listed below and, insofar as the subject matter of each of the claims of this application is not disclosed in the prior United States or PCT International application in the manner provided by the first paragraph of Title 35, United States Code, §112, I acknowledge the duty to disclose information which is material to patentability as defined in Title 37, Code of Federal Regulations, §1.56 which became available between the filing date of the prior application and the national or PCT International filing date of this application:

(Status)(Patented, pending abandoned)
(Statut)(breveté, en cours d'examen, abandonné)

(Status)(Patented, pending abandoned)
(Statut)(breveté, en cours d'examen, abandonné)

I hereby declare that all statements made herein of my own knowledge are true and that all statements made on information and belief are believed to be true; and further that these statements were made with the knowledge that willful false statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize the validity of the application or any patent issued thereon.

French Language Declaration

POUVOIR: En tant que l'inventeur cité, je désigne par la présente l'(les) avocat(s) et/ou agent(s) suivant(s) pour qu'il(s) poursuive(nt) la procédure de cette demande de brevet et traite(nt) toute affaire s'y rapportant avec l'Office des brevets et des marques: (mentionner le nom et le numéro d'enregistrement).

POWER OF ATTORNEY: As a named inventor, I hereby appoint the following attorney(s) and/or agent(s) to prosecute this application and transact all business in the Patent and Trademark Office connected therewith. (list name and registration number)

David Wolf	17,528	Gary S. Engelson	35,128	Robert M. Abrahamsen	40,886	Michael J. Pomianek	46,190
George L. Greenfield	17,756	Randy J. Pritzker	35,986	Edward J. Russavage	43,069	Maria A. Trevisan	48,207
Stanley Sacks	19,900	Richard F. Giunta	36,149	Neil P. Ferraro	39,188	M. Brad Lawrence	47,210
Edward F. Perlman	28,105	Douglas R. Wolf	36,971	Lisa E. Winsor	44,405	Konstantinos Andrikopoulos	48,915
Lawrence M. Green	29,384	Elizabeth R. Plumer	36,637	Mark Steinberg	40,829	Eric Amundsen	46,518
Steven J. Henry	27,900	Timothy J. Oyer	36,628	Stephen R. Finch	42,534	Carole Boelitz	48,958
Edward R. Gates	31,616	John N. Anastasi	37,765	Joseph Teja, Jr.	45,157	Robert E. Hunt	39,231
William R. McClellan	29,409	Helen C. Lockhart	39,248	Jeffrey B. Powers	45,021	Chantal Morgan-D'Apuzzo	48,825
Ronald J. Krandsdorf	20,004	James M. Hanifin, Jr.	39,213	Alan W. Steele	45,128	Kristin D. Wheeler	43,583
Jason M. Honeyman	31,624	John R. VanAmsterdam	40,212	Daniel P. McLoughlin	46,066	Lisa K. Jorgenson	34,845
James H. Morris	34,681	Matthew B. Lowrie	38,228	Robert H. Walat	46,324	Robert D. McCutcheon	38,717
Peter C. Lando	34,654	Robert A. Skrivaneck, Jr.	41,316	Thomas G. Field, III	45,596	Mario J. Donato, Jr.	37,816
				Ilan Barzilay	46,540	Nainesh Shah	40,166

Adresser toute correspondance à:

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600 Atlantic Avenue, Boston, MA 02210-2211(USA)

Adresser tout appel téléphonique à:
(Nom et numéro de téléphone)

Direct Telephone Calls to: (name and telephone number)

James H. Morris
(617) 720-3500

Nom complet de l'unique ou premier inventeur

MARTY Pierre

Full name of sole or first inventor

Signature de l'inventeur

Date

12/06/02

Inventor's signature

Date

Domicile

38180 SEYSSINS, FRANCE

Residence

Nationalité

French

Citizenship

Adresse Postale

29, Rue de la Paix

Post Office Address

Nom complet du second co-inventeur, le cas échéant

REY Gaëlle

Full name of second or joint inventor

Signature de l'inventeur

Date

Inventor's signature

Date

Domicile

38000 GRENOBLE, FRANCE

Residence

Nationalité

French

Citizenship

Adresse Postale

49, Rue du Vercors

Post Office Address

(Fournir les mêmes renseignements et la signature de tout co-inventeur supplémentaire.)

(Supply similar information and signature for third and sub-sequent joint inventors.)

French Language Declaration

Nom complet du troisième co-inventor, le cas échéant CHAUVET Pascal	Full name of third joint inventor, if any
Signature de l'inventeur Date 6/07/2002	Inventor's signature Date
Domicile 38000 GRENOBLE, FRANCE	Residence
Nationalité French	Citizenship
Adresse Postale 7A, Chemin Barral	Post Office Address
Nom complet du quatrième co-inventor, le cas échéant	Full name of fourth joint inventor, if any
Firma del quarto inventore Date	Inventor's signature Date
Domicile	Residence
Nationalité	Citizenship
Adresse Postale	Post Office Address
Nom complet du cinquième co-inventor, le cas échéant	Full name of fifth joint inventor, if any
Firma del secondo inventore Date	Inventor's signature Date
Domicile	Residence
Nationalité	Citizenship
Adresse Postale	Post Office Address
Nom complet du sixième co-inventor, le cas échéant	Full name of sixth joint inventor, if any
Firma del sesto inventore Date	Sixth inventor's signature Date
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